

**REMARKS**

Applicant thanks the Examiner for accepting the drawings filed on November 30, 2007.

Claims 1-8, 12-16, 18 and 19 are pending in this application. Claims 9, 10, 35 and 36 have been cancelled. Claims 1-8, 12-16, 18 and 19 stand rejected.

**Double Patenting**

The Examiner has rejected claims 1, 2, 12, 13, 18 and 19 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 25 of copending Application No. 10/809,524. Applicant notifies the Examiner that a Notice of Abandonment in connection with U.S. Application No. 10/809,524, dated March 21, 2008 was received from USPTO. Therefore, Applicant kindly requests the withdrawal of the double patenting rejection.

**Claim Rejection - 35 U.S.C. § 103(a)**

Claims 1, 2, 12, 13, 16, 18 and 19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Yamada (U.S. 2001/0017828, hereinafter “Yamada”) in view of Casto et al. (U.S. 4,118,789, hereinafter “Casto”).

Claims 3-8, 14 and 15 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Yamada in view of Casto, in further view of Ogino et al. (U.S. 7,031,942, hereinafter “Ogino”).

**Rejection of Claims 1, 2, 12, 13, 16, 18 and 19 under § 103(a) over Yamada in view of Casto**

The Examiner states that the arguments presented in the filing of November 30, 2007 have been considered but are not persuasive. *See* Office Action, pg. 7. Applicant notes that the Examiner has not properly dealt with all the arguments presented by the Applicant. Where the

applicant traverses any rejection, the Examiner should, if he repeats the rejection, take note of the applicant's argument and answer the substance of it. *See* MPEP 707.07(f). Applicant submits that the Examiner fails to answer the substance of the Applicant's argument.

The Examiner loosely states that “[r]egarding Applicant's argument that the DGCCI and WMCCI may not both exist in all AV streams, it is not necessary for art that render a claimed invention unpatentable to apply to all situations.” *See* Office Action, pg. 7. The Examiner goes on to state that the existences of DGCCI and WMCCI in a stream in Yamada are not mutually exclusive and the two types of files in Yamada have the same meaning, even though they are handled differently depending on which control field is being used causing them to be redundant and one skilled in the art would be motivated to take advantage of this redundancy as per Castro's teachings. *See* Office Action, pg. 7-8. In this response, the Examiner merely attempts to respond to the Applicant's last assertion regarding Casto that the controls instructions not being in an AV stream but at two different locations - further supports our position that Casto teaches away from the invention as recited in claim 1. However, the Examiner fails to respond to the substance of our argument directed to the fact that one skilled in that one of the skilled in the art would not combine the teachings of Yamada and Casto, because Yamada teaches away from comparing the first and second copy information. In the response filed on November 30, 2007, the assertion regarding Casto was to further supplement the substantive arguments presented with respect to Yamada and the claimed invention.

Applicant's arguments were not properly responded to by the Examiner. Applicant again notes that according to the Examiner, Casto is merely disclosed to show that one skilled in the art would allegedly modify Yamada so that the DGCCl and WMCCI are compared. However, in

Yamada, the digital contents data includes two types of copy control management information (CCI), i.e., a digital CCI (“DGCCI”) and an analog embedded type (“watermark”; “WMCCI”) in a disc. In the paragraph cited by the Examiner, ¶ 0071, Yamada discloses that both the DGCCI and WMCCI are set to status “10” (*see Fig. 13*). Since DGCCI is set to “10”, reproduction, i.e., playback, is possible, although WMCCI set to the same value of “10” which would inhibit, i.e., prohibit, reproduction. *See Fig. 13*. Therefore, if DGCCI is present, **only a single copy control management information, i.e., the DGCCI**, would be referenced to determine if reproduction is permitted. If the DGCCI is not present, then only the WMCCI is referenced. Therefore, Yamada **teaches away** from comparing **the first and the second copy control information** and, instead, relies on just one of the two CCI information.

As noted above, the DGCCI, if present, determines if reproduction is possible, without considering the WMCCI. In fact, the value in WMCCI must be necessarily ignored. Figure 13 shows that DGCCI set to “00” permits “copy free,” **but prohibits reproduction**. In contrast, WMCCI set to “00,” **allows reproduction**. Therefore, if DGCCI and WMCCI are equal, DGCCI and WMCCI would indicate opposite permissions with respect to reproduction. Rather, it is situations where DGCCI and WMCCI **are not equal**, i.e., when DGCCI = 10 or 11 and WMCCI=00, that both DGCCI and WMCCI would permit reproduction.

To stop reproduction if the DGCCI and WMCCI are different, would be entirely contrary to the nature of the operation of Yamada, and thus, would one skilled in the art would not combine the teachings of Yamada and Casto.

Further, the Examiner failed to respond to our note that “[i]f the proposed modification or combination of the prior art would change the principle of operation of the prior art invention

being modified, the teachings of the references are not sufficient to render the claims prima facie obvious. In re Ratti, 270 F.2d 810, 123 USPQ 349 (CCPA 1959).” MPEP at § 2143.01(VI). Here, any modification of Yamada so that the reproduction is stopped “if the two CCI control modes are not equal” as recited in the claim language, would change the principle of operation of Yamada.

For at least the reasons submitted above, Applicant submits that claim 1 is patentable.

Claim 2 is which depends from claim 1, is believed to be patentable at least by virtue of its dependency on independent claim 1.

For reasons submitted for claim 1, Applicant submits that independent claims 12, 16, 18 and dependent claims 13 and 19 are patentable.

Rejection of Claims 3-8, 14 and 15 under § 103(a) over Yamada in view of Casto and further in view of Ogino

Applicant submits that claims 3-8, 14 and 15, which depend from claim 1 or 12, are patentable for at least the reasons submitted for their respective base claims and because Ogino fails to make up for the deficiencies of Yamada and Casto.

Furthermore, the Examiner fails to respond to the arguments presented with respect to claim 4. Specifically, the Examiner fails to respond to the Applicant’s assertion that Ogino does not disclose the claimed control unit which controls the key generating unit and the content interpreting unit to stop generating the decryption key or stop decrypting the content, when the first and the second copy control information are different, and, when the first and the second copy control information are the same, controls the key generating unit and the content

interpreting unit according to the copy control mode, in combination with other elements of the claim. Applicant respectfully requests the Examiner to point out specifically where the claimed control unit is disclosed by the cited references. Accordingly, the features of claim 4 are not disclosed by the cited art. Accordingly, Applicant respectfully requests withdrawal of this rejection for this additional reason.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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